

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE: GENE M. FONTAINE DEBTOR.	CASE NO. 14-10861-DF CHAPTER 7
------------------------------------	-----------------------------------

U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR GSR MORTGAGE LOAN
TRUST 2004-8F, MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES 2004-
8F

it's successors or assigns,

Movant.

v.

GENE M. FONTAINE,

Debtor.

MEMORANDUM OF LAW IN SUPPORT OF MOTION OF MOVANT FOR RELIEF
FROM THE AUTOMATIC STAY

INTRODUCTION:

The facts of this case and motion are more specifically spelled out in the Motion for Relief from Automatic Stay filed herewith to which the Court is referred. In the Motion, U.S. Bank National Association, as Trustee for GSR Mortgage Loan Trust 2004-8F, Mortgage Pass-Through Certificates, Series 2004-8F ("Movant") requests relief from stay in order to pursue its remedies under state law to liquidate its secured claim against the property of the estate of the Gene M. Fontaine (hereinafter the "Debtor") by foreclosure of its mortgage. The Debtor has defaulted on the mortgage payments both pre and post-petition, and thus Movant is not being adequately protected. Furthermore, there is no equity in the property such that the Chapter 7 Trustee has no interest in it.

ARGUMENT:

Section 361 (d) (2) of the Bankruptcy Code states in relevant part that the Court may terminate the automatic stay "if the debtor does not have equity in such property." As set forth in Movant's motion the Debtor does not have equity in the property, thus permitting this Court to terminate the stay as regards this property.

CONCLUSION:

For the foregoing reasons, Movant respectfully requests that this Court enter an order lifting the automatic stay in effect in order to permit Movant to proceed to exercise its rights and remedies under state law and under a certain note and mortgage, including but not limited to foreclosure.

Date: May 22, 2014

Respectfully submitted,
U.S. Bank National Association, as Trustee for GSR
Mortgage Loan Trust 2004-8F, Mortgage Pass-
Through Certificates, Series 2004-8F
by its attorney,

/s/ Lynn Bouvier Kapiskas
Lynn Bouvier Kapiskas, Esquire
RI# 3921
176 Eddie Dowling Highway, Suite 101
North Smithfield, RI 02903
(401) 769-4120
(Local Counsel)

/s/ John S. McNicholas
John S. McNicholas, Esquire
RI# 8732
Korde & Associates, P.C.
321 Billerica Road, Suite 210
Chelmsford, MA 01824-4100
Tel: (978) 256-1500 ext. 203
jmcnicholas@kordeassoc.com
(Primary Counsel)